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COMMITTEE ON THE RIGHTS OF THE CHILD

Eighteenth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Luxembourg

1. The Committee considered the initial report of Luxembourg (CRC/C/41/Add.2) at its 471st to 473rd meetings (see CRC/C/SR.471-473), held on 2 and 3 June 1998, and adopted* the following concluding observations:

A. Introduction

2. The Committee welcomes the submission of the State party's detailed initial report, which followed the guidelines established by the Committee. It also takes note of the written answers to the list of issues (CRC/C/Q/LUX/1). The Committee further welcomes the fruitful and constructive dialogue with the delegation.

B. Positive factors

3. The Committee notes the existence of the Youth Parliament, and welcomes its involvement in the discussion regarding the proposed law to establish a committee having the functions of an Ombudsperson.

4. The Committee welcomes the statement of the delegation that the Government of Luxembourg has the intention of increasing its contribution to international development assistance from 0.36 per cent to the 0.7 per cent United Nations target of its Gross Domestic Product by the end of 1999.

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* At the 477th meeting, held on 5 June 1998.

C. Principal subjects of concern

5. The Committee is concerned that the State party has made reservations affecting articles 2, 6, 7 and 15 of the Convention.

6. The Committee expresses its concern that while the 1992 Law on Youth Protection covers several provisions of the Convention on the Rights of the Child, domestic legislation still needs to be amended and new laws enacted to fully implement the principles and provisions of the Convention. In this regard, the Committee is concerned by the slow pace for the adoption of proposed appropriate amendments.

7. The Committee is concerned that the State party has not adopted a comprehensive policy to promote and protect children's rights. It is also concerned by the absence of a strong coordination and monitoring mechanism and that the project to establish a Luxembourg Committee on Children's Rights as an independent monitoring mechanism has still not been formalized.

8. While recognizing the efforts of the State party in this respect, the Committee is concerned that insufficient measures have been taken to provide adequate training on children's rights to all professional groups working with and for children. It also believes that systematic dissemination and awareness raising about the principles and provisions of the Convention in all parts of society, among children and adults alike, still remains a matter of concern.

9. The Committee is concerned that there is no law which fully covers all the grounds related to non-discrimination as spelled out in article 2 of the Convention, and that children born out of wedlock may still suffer different forms of discrimination and stigmatization, particularly from the use of the terms "legitimate" and "illegitimate" in the Civil Code.

10. The Committee expresses its concern that the general principles of the Convention, especially its articles 2 (non-discrimination), 3 (best interests of the child) and 12 (respect for the views of the child), are not yet fully implemented in legislation, policies and practice.

11. The Committee expresses its concern that the rights enumerated in article 7.1 of the Convention, especially the right of the child to know his or her parents, are denied by the State party to children born anonymously ("under x"), even if this right is proven to be in their best interests.

12. The Committee is concerned that no legislation exists to protect children from being exposed to violence and pornography through video movies and other modern technologies, most prominently, the Internet. Moreover, concern is expressed that possession of pornographic material, including that involving children, is not an offence in the State party.

13. In the light of articles 3, 5, 19 and 28.2 of the Convention, concern is expressed that corporal punishment within and outside the family is not specifically prohibited by law.

14. The Committee is concerned that legislation does not cover all existing forms of placement. It is further concerned that regular and independent monitoring and periodic review of placement are not systematically undertaken. The Committee is also concerned by the placement of children in care institutions in neighbouring countries due to lack of facilities and trained professionals in the State party.

15. With regard to adoption, the Committee notes with concern that domestic legislation does not appear to respect fully all the provisions of article 21 of the Convention, especially the implementation of appropriate measures to ensure that intercountry adoption does not result in improper financial gain for those involved in it.

16. The Committee expresses its concern that the Penal Code restricts its protection from all forms of abuse and neglect to children under 14 years old.

17. While taking note of the 1994 law on school inclusion for children with disabilities, the Committee is concerned at the unclear status of implementation of this legislation.

18. The Committee expresses its concern at the noticeable reduction in the rate of breast-feeding following the first month of birth. It is further concerned by the short maternity leave period and that the International Code for Marketing of Breast Milk Substitutes is not fully implemented.

19. The Committee expresses its concern about the rate of suicides among young people in the State party, and that suicides have occurred among young people when in detention. The Committee is also concerned by the increase of drug and alcohol abuse among youth.

20. The Committee is concerned about the insufficient measures taken by the State party to introduce human rights education, including the rights of the child, into the school curricula in a systematic manner, in accordance with article 29 of the Convention.

21. With regard to sexual exploitation of children, the Committee expresses its concern at the existence of child prostitution in the State party and at the involvement of children in international prostitution networks. It is further concerned that it is not illegal for children above 16 to get involved in prostitution.

22. The administration of juvenile justice, and in particular its compatibility with articles 37, 40 and 39 of the Convention and with other relevant standards such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, is a matter of concern to the Committee. The Committee is particularly concerned that children aged between 16 and 18 may be referred to ordinary courts and judged as adults. It is further concerned that juveniles may be detained with adults in ordinary prisons, where the conditions are extremely unfavourable, including strict limits on time for exercise and leisure, the virtual absence of educational opportunities and long periods of isolation in their cells. In this regard, the Committee is concerned by the

slow pace taken to implement all decisions taken by the interministerial working group to improve drastically the conditions of detention of children.

E. Suggestions and recommendations

23. In the light of the Vienna Declaration and Programme of Action of 1993, the Committee encourages the State party to consider reviewing its reservations with a view to their withdrawal.

24. The Committee recommends that the State party, on a priority basis, take all necessary measures to ensure that its domestic legislation is in full conformity with the provisions and principles of the Convention.

25. The Committee encourages the State party to adopt a comprehensive strategy for children. The Committee also wishes to suggest that the State party envisage the establishment of a permanent mechanism of coordination, evaluation, monitoring and follow-up for policies aimed at the protection of the child to ensure that the Convention is fully respected and implemented, at the central and local levels. In this respect and as part of the ongoing efforts of the State party to promote and protect the rights of the child, the Committee encourages the State party in its efforts to establish an independent monitoring body, such as an Ombudsperson.

26. The Committee recommends that the State party continue to disseminate the Convention in appropriate languages to adults and children alike. It also recommends that the authorities continue to ensure awareness raising, education and training programmes about the Convention on the Rights of the Child for professional groups working for and with children, such as: judges, lawyers, law enforcement and army officials, civil servants, including at the local level, personnel working in institutions or other places of detention for children, health personnel and social workers.

27. The Committee recommends that the State party fully take into account in its legislation all the grounds for protection from discrimination as spelled out in article 2 of the Convention. In particular, the Committee recommends that the State party take all appropriate measures to ensure that children born out of wedlock do not suffer discriminatory treatment or stigmatization, and that the terms "legitimate" and "illegitimate", which are currently used in the Civil Code, be eliminated. In view of the multinational dimension of the society, the Committee further recommends that the State party take all appropriate measures, including legal ones, to guarantee all the rights set forth by the Convention to all children living within its jurisdiction, in the light of articles 2, 3 and 22.

28. It is the Committee's view that further efforts must be undertaken to ensure that the general principles of the Convention, in particular "non-discrimination" (art. 2), the "best interests of the child" (art. 3) and the "respect for the views of the child" (art. 12), not only guide policy formulation and decision-making, but also are integrated appropriately into any judicial and administrative decisions, as well as in the development and implementation of all projects and programmes which have an impact on children.

29. In order to protect fully the rights of children born anonymously ("under x"), the Committee recommends that the State party take all appropriate measures to ensure that the provisions of article 7, especially the right of the child to know his or her parents, be fully enforced in the light of the principles of "non-discrimination" (art. 2) and the "best interests of the child" (art. 3).

30. In the light of article 17 of the Convention, the Committee recommends that the State party take all appropriate legal and other measures to protect children from being exposed to violence and pornography through video movies and other modern technologies, including the Internet. The Committee also recommends that the State party pursue its efforts to adopt legislation effectively prohibiting the possession of pornographic material involving children. Bilateral cooperation with neighbouring countries should be engaged to this effect.

31. In the light of articles 3, 19 and 28.2, the Committee recommends that corporal punishment at home and in care institutions be explicitly prohibited by law.

32. The Committee encourages the State party to take all appropriate measures, including of a legislative nature, to ensure that a child placed in any form of institution is guaranteed all his/her rights set forth by the Convention, in particular the right to periodic review of placement. The Committee also recommends that the State party establish a monitoring mechanism for care and other types of institutions. Particular attention should be paid to monitoring children placed in foreign institutions when specialized expertise or appropriate facilities do not exist in the State party. In this regard, the Committee recommends that a study to assess the impact of placement of children in neighbouring countries be undertaken.

33. The Committee recommends that the State party ensure that domestic legislation, procedures, policies and practices fully respect the provisions of article 21 of the Convention. It encourages the State party to consider ratifying the Hague Convention of 1993 on Protection of Children and Cooperation with Respect to Intercountry Adoption.

34. With regard to the rights of children with disabilities and in the light of, inter alia, the provisions of article 23 of the Convention, the Committee encourages the State party to take all measures to implement fully the 1994 Law on school inclusion.

35. The Committee encourages the State party to specifically integrate human rights education, including the rights of the child, in the school curricula.

36. The Committee recommends that the State party undertake a comprehensive study to identify reasons for the drop in breast-feeding after the first month. It also recommends the extension of the period of maternity leave, serious efforts to educate the public - especially new parents - on the benefits of breast-feeding and the adoption of other measures, as necessary, to counteract any negative impact on employment of women who wish to continue breast-feeding their children for a longer period of time. Finally, the Committee recommends that the State party increase its efforts to promote

compliance with the International Code for Marketing of Breast Milk Substitutes.

37. The Committee encourages the State party to undertake studies on the causes of suicide and other mental health problems among young people and to adopt measures to combat this phenomenon. It further recommends that the State party undertake "youth-friendly" preventive, curative and rehabilitative measures to address the increasing problem of drug and substance abuse among young adolescents.

38. The Committee recommends reinforcing its legislation, policies and programmes to prevent and combat all forms of sexual exploitation and abuse, including child prostitution, child pornography and trafficking in children. In this regard, the Committee recommends that the State party establish a comprehensive national plan of action and implement the recommendations of the 1996 Stockholm Congress against Commercial Sexual Exploitation of Children.

39. With regard to the administration of juvenile justice, the Committee recommends that the State party take all measures to fully integrate the provisions of the Convention, in particular articles 37, 40 and 39, as well as other relevant international standards in this area, such as the Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty in its legislation, policies and practices. Special attention should be given to alternatives to detention, to preventing suicide in detention, to providing appropriate infrastructures to detained children in order to fully ensure their separation from adults and to guarantee that they have regular contacts with their family. The right of detained children to education, including vocational training, should be fully taken into account. The Committee strongly recommends that the State party take all appropriate measures to implement all appropriate recommendations adopted by the interministerial working group to improve drastically the conditions of detention of children.

40. Finally, in the light of article 44, paragraph 6, of the Convention, the Committee recommends that the initial report and written replies submitted by the State party be made widely available to the public, along with the summary records of the relevant meetings and concluding observations adopted by the Committee. Such wide distribution should generate debate and awareness of the Convention and the state of its implementation, particularly within the Government, the relevant ministries, the Parliament and non-governmental organizations.